

**REMARKS**

Favorable reconsideration of this application, in light of the following remarks, is respectfully requested.

Claims 1-21 are pending in this application. No claims are amended and no claims are cancelled.

**Rejections under 35 U.S.C. § 101**

Claims 1-21 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Applicants respectfully traverse this rejection for the reasons detailed below.

The Examiner previously stated that claims 1-21 “define non-statutory processes because they merely manipulate an abstract idea (the mathematical manipulation of data (voice information and text)) without a claimed limitation to produce a useful, concrete, tangible result.” Independent claims 1 and 11 recite *inter alia* “determining whether said input signal is speech or voice-band data”. Accordingly, Applicants respectfully submit that claims 1 and 11 denote a practical application that produces a useful, concrete, and tangible result.

Moreover, MPEP § 2106 IV.C. states that in “evaluating whether a claim meets the requirements of section 101, the claim must be considered as a whole to determine whether it is for a particular application of an abstract idea, natural phenomenon, or law of nature, and not for the abstract idea, natural phenomenon, or law of nature itself.” Further, MPEP § 2106 IV.C.2.(2) states that “a physical transformation ‘is not an invariable requirement, but merely one example of how a mathematical algorithm [or law of nature] may bring about a useful application.’” In particular, the court in State Street Bank states the following:

Since § 101 expressly includes processes as a category of inventions which may be patented and § 100(b) further defines the word “process” as meaning “process, art or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material,” it follows that it is no ground for holding a

claim is directed to nonstatutory subject matter to say it includes or is directed to an algorithm...The question of whether a claim encompasses statutory subject matter should not focus on which of the four categories of subject matter a claim is directed to --process, machine, manufacture, or composition of matter--but rather on the essential characteristics of the subject matter, in particular, its **practical utility**. [Emphasis added]

State Street Bank & Trust Co. v. Signature Fin. Group, Inc., 149 F.3d 1368, 1374-1375 (Fed. Cir. 1998). *See also* Arrhythmia Research Tech. Inc. v. Corazonix Corp., 958 F.2d 1053 (Fed. Cir. 1992) (holding transformation of heart signals into a mathematical algorithm statutory); State Street Bank & Trust Co. v. Signature Fin. Group, Inc., 149 F.3d 1368 (holding the transformation of data to produce a final share price a practical application of a mathematical algorithm because it produces "a useful, concrete and tangible result").

The language "determining whether said input signal is speech or voice-band data" in claim 1 clearly denotes a practical, useful application. Claim 1, as a whole, relates to a method of discriminating speech from voice-band data in a communication network. Also, Applicants' specification at page 1, lines 7-10, states that it "is well known that the ability to discriminate between speech and voice-band data (VBD) signals, e.g., originating from a modem or facsimile machine, in a communication network can improve network efficiency and/or ensure Quality of Service requirements."

Further, determining whether an input signal is speech or voice-band data is not simply an abstract idea but may correspond to a physical system or device. As Applicants' specification states at page 4, lines 20-28, a speech/VBD discriminator may be implemented by a variety of physical network interface devices such as an "ATM trunking device or an IP-telephone network gateway" which may include discrete physical components such as Digital Signal Processors (DSP), programmable logic devices, or integrated circuits.

The Applicants, therefore, respectfully request that the rejection to claims 1 and 11 under 35 U.S.C. § 101 be withdrawn. Claims 2-10 and 12-21, dependent on independent claims 1 and 11 respectively, are patentable for the reasons stated above as well as for their own merits.

As claims 1-21 recite subject matter used and relied upon in practical real world situations and involve the physical transmission of data from devices such as modems or facsimile machines and speech from users, the claims recite statutory subject matter. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection to claims 1-21.

**CONCLUSION**

In view of the above remarks, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

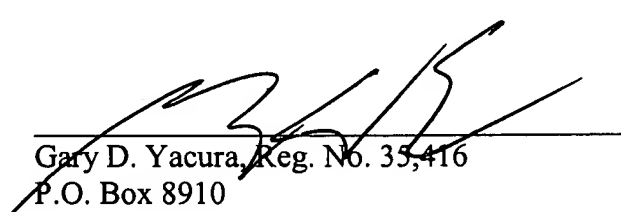
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura, Reg. No. 35,416, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

  
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